IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 22019 of 2007(U)

PETITIONER:

BABU MATHEW, AGED 65 YEARS,
S/O CHAKRAVELIL HOUSE, MANNATHOOR KARA,
THIRUMARADY VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.

BY ADV. SRI.P.FAZIL
SMT.JAYASREE MANOJ
SRI.SREEJITH V.S.

RESPONDENTS:
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1. THIRUMARADY GRAMA PANCHAYATH,
THIRUMARADY P.O., KOOTHATTUKULAM (VIA),
ERNAKULAM DISTRICT. REP. BY ITS SECRETARY.

***2. K.M. JOSEPH, S/O. MATHEW, AGED 67,**
NIRMAL BHAVAN, MANNATHOOR.

***ADDL.R2 IS IMPLEADED AS PER ORDER DATED**
01/08/2007 IN IA NO. 10170/2007.

BY ADV. SRI.MANOJ P.KUNJACHAN FOR R2
SRI.REJI JOSEPH
SRI.FRANCIS JOSEPH KURISINKAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 22019/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER NO. A4/211/07 DT. 11/07/07 BYTHE SECRETARY.

RESPONDENT'S EXHIBITS

EXT.R2A. COPY OF THE PHOTOGRAPH.

True copy

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K.M.JOSEPH, J.

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WP.(C) No.22019 of 2007

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Dated this the 1st day of August, 2007

JUDGMENT

Petitioner has approached this court challenging Ext.P1 issued by the respondent Panchayat calling upon the petitioner to cut down a tree. It is said to be based on the order passed by the Ombudsman on the complaint given by the party respondent.

2. I heard learned counsel for the parties.

3. It is not in dispute that the petitioner was not heard before Ext.P1 was issued. Of course the case is that there is no need to cut down the coconut tree and he is ready and willing to take precautionary measures like pulling it away from the road using stay wire, providing trap guards using net etc., for averting the alleged nuisance. But counsel for the additional respondent points out that the complaint which he made before the Ombudsman was related to the non-widening of the road and it is in this context that the Panchayat conducted an inquiry and understood the need to cut down the coconut tree.

4. Having heard counsel for the parties, I feel that a decision should be taken in the matter after affording an opportunity of hearing to the petitioner and the second respondent.

Accordingly the writ petition is disposed of directing that Ext.P1 shall be treated as a notice. The petitioner may file his objection to Ext.P1 within one week from today. Upon receipt of the objection filed by the petitioner, the respondent Panchayat will proceed to afford an opportunity of hearing to the petitioner and the additional respondent and take a decision in the matter within one month thereafter.

(K.M. JOSEPH, JUDGE)

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